

3CT8RUIS

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

02 Cr. 1290 (RMB)

5 HECTOR RUIZ,

6 Defendant.

7 -----X  
8 December 29, 2003  
9 2:45 p.m.

10 Before:

11 HON. RICHARD BERMAN

12 District Judge

13 APPEARANCES

14 DAVID N. KELLEY

United States Attorney for the  
Southern District of New York

15 LAUREN GOLDBERG

Assistant United States Attorney

16 B. ALAN SEIDLER

17 Attorney for Defendant

18  
19 Also present: Cristina Arsuaga, Spanish interpreter  
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1 THE COURT: So let's note at the outset that we have a  
2 Spanish language interpreter and ask Mr. Ruiz if he is able to  
3 understand these proceedings with the help of the interpreter?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: So at the last session, or our last court  
6 appearance rather, there were certain outstanding legal issues  
7 as to which I gave you my ruling. What remains for us today is  
8 to complete the sentencing, is that correct?

9 MR. SEIDLER: Yes, sir.

10 THE COURT: In that regard, I have received the  
11 presentence investigation report dated December 19, 2003, which  
12 has an addendum and a sentencing recommendation of the same  
13 date.

14 As I mentioned earlier, there is also correspondence,  
15 and I think I reflected a letter of November 14, 2003 from Mr.  
16 Seidler and November 25, 2003 from Mr. Mukasey, and then again  
17 a letter of December 10 from Mr. Seidler which also enclosed  
18 letters of support from Mr. Ruiz's family.

19 Mr. Seidler, have you had a chance to discuss all of  
20 these materials with Mr. Ruiz?

21 MR. SEIDLER: Yes, your Honor, including Mr. Ruiz's  
22 situation with regard to the safety valve. And we are not  
23 going to seek safety valve relief because of its impact on his  
24 appellate rights.

25 THE COURT: In particular, the recommendation in the

1 presentence investigation report, the proposal that his  
2 guideline range is 121 to 151 months and the recommendation  
3 that he be sentenced to 121 months, have you been over that?

4 MR. SEIDLER: Yes, sir.

5 THE COURT: Mr. Ruiz, you have been over those  
6 materials with Mr. Seidler, is that correct?

7 THE DEFENDANT: Yes.

8 THE COURT: Do either of you have objections that you  
9 want to note at this time?

10 MR. SEIDLER: Nothing that has not previously been  
11 raised.

12 THE COURT: Mr. Ruiz, anything that you want to  
13 mention that has not been previously mentioned?

14 THE DEFENDANT: No.

15 THE COURT: Then I will return the presentence  
16 investigation materials to the probation department.

17 Mr. Seidler, did you want to be heard on Mr. Ruiz's  
18 behalf before we conclude the sentencing?

19 MR. SEIDLER: Your Honor, I would just like to  
20 highlight -- I would ask your Honor to follow probation's  
21 recommendation. I am aware there is a mandatory minimum.  
22 There is very little room. I would suggest that 121 months is  
23 more than sufficient to send a message to Mr. Ruiz and anybody  
24 else who may be listening. I would ask your Honor to impose  
25 the minimum sentence.